

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DAVID PAUL JOHNSON,

Plaintiff,

v.

ROSCOMMON COUNTY ANIMAL CONTROL
AND SHELTER, et al.,

Defendants.

Case No. 1:24-cv-12380

Honorable Thomas L. Ludington
United States District Judge

Honorable Patricia T. Morris
United States Magistrate Judge

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE
FOR FAILURE TO PROSECUTE**

On September 6, 2024, Plaintiff David Paul Johnson filed a *pro se* Complaint against the State of Michigan, Roscommon County Animal Control and Shelter, and various animal control officers. ECF No. 1. Plaintiff generally alleges these Defendants “engaged in unconstitutional conduct” when they seized his “nice herd of tiny guinea pigs” in August 2024. *Id.* at PageID.5, 9.

On September 12, 2024, the undersigned referred all pretrial matters to Magistrate Judge Patricia T. Morris. ECF No. 5. In April 2025, this Court adopted Judge Morris’s recommendation to dismiss the State of Michigan as a Defendant because it is entitled to Eleventh Amendment sovereign immunity and, alternatively, Plaintiff did not sufficiently allege its involvement. *See* ECF Nos. 24; 26.

Thereafter, Plaintiff did not submit a Rule 26(f) discovery plan nor initiate a required planning meeting. *See* ECF No. 27 (directing Plaintiff to “conduct a meeting in person or by telephone with opposing counsel no later than May 9, 2025 to discuss the case pursuant to Rule 26(f)” (emphasis omitted)). So, on May 20, 2025, Judge Morris issued an order directing Plaintiff to show cause “on or before **June 6, 2025**, why he failed to comply with the Court’s [discovery

scheduling] order.” ECF No. 29 at PageID.123. And Plaintiff was cautioned that a “failure to respon[d] . . . may result in a recommendation that [his] case be dismissed for failure to prosecute.” *Id.* at PageID.124.

Yet Plaintiff did not respond. So, over one month *after* his response deadline, Judge Morris issued a report (R&R) recommending that this Court dismiss Plaintiff’s Complaint for failure to prosecute. ECF No. 30. Consistent with Civil Rule 72, Judge Morris provided the Parties 14 days to object. *Id.* at PageID.129. But the Parties did not do so. Thus, they have therefore forfeited their right to appeal Judge Morris’ findings. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). Having reviewed the record, there is no clear error in Judge Morris’s R&R.

Accordingly, it is **ORDERED** that Judge Morris’s Report and Recommendation, ECF No. 30, is **ADOPTED**.

Further, it is **ORDERED** that Plaintiff’s Complaint, ECF No. 1, is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

This is a final order and closes the above-captioned case.

Dated: July 25, 2025

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge